

ESTTA Tracking number: **ESTTA409950**

Filing date: **05/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Dallas Manufacturing Co., Inc.
Granted to Date of previous extension	05/25/2011
Address	4215 McEwen Road Dallas, TX 75244 UNITED STATES

Attorney information	Susan Hwang, Esq. Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles, CA 90071 UNITED STATES gclark@sheppardmullin.com, shwang@sheppardmullin.com Phone:(213) 620-1780
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### Applicant Information

Application No	85105221	Publication date	01/25/2011
Opposition Filing Date	05/19/2011	Opposition Period Ends	05/25/2011
Applicant	IMJ Marketing Inc. Suite 625 7 Wes 34th Street New York, NY 10001 UNITED STATES		

### Goods/Services Affected by Opposition

Class 020. First Use: 2008/05/01 First Use In Commerce: 2008/05/01  
All goods and services in the class are opposed, namely: Beds for household pets; Crate covers for pets; Pet cushions; Pet furniture; Portable beds for pets

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1671141	Application Date	02/13/1991
Registration Date	01/07/1992	Foreign Priority Date	NONE
Word Mark	COZY PET		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 020. First use: First Use: 1990/08/01 First Use In Commerce: 1990/08/01 portable beds for pets

Attachments	159761-NotOfOppn.PDF ( 10 pages )(117436 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Susan Hwang/
Name	Susan Hwang, Esq.
Date	05/19/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DALLAS MANUFACTURING  
COMPANY, INC.

Opposer,

v.

IMJ MARKETING INC.

Applicant.

Opposition No. \_\_\_\_\_

Serial No. 85/105,221

Mark: COZY CRAFT PET BEDS

Filed: August 11, 2010

Published: January 25, 2011

**NOTICE OF OPPOSITION**

Opposer, Dallas Manufacturing Company, Inc., a corporation organized and existing under the laws of the State of Texas, having a place of business at 4215 McEwen Road, Dallas, Texas 75244 (“DMC”), believes that it will be damaged by registration of the mark COZY CRAFT PET BEDS shown in Application Serial No. 85/105,221 for the goods in International Class 20, filed August 11, 2010 by Applicant, IMJ Marketing Inc., upon information and belief a New York corporation having a place of business at 7 West 34th Street, Suite 625, New York, NY 10001 (“IMJ Marketing”), and hereby opposes the same.

As grounds for opposition, Opposer DMC alleges that:

1. Opposer DMC is engaged, among other things, in the business of making and selling pet products, including portable pet beds.
2. Opposer DMC is the owner of U.S. Trademark Registration No. 1,671,141 for the mark COZY PET, registered in connection with “portable beds for pets” in International

Class 20. A copy of the registration certificate and current TARR status printout is attached hereto as **Exhibit A**.

3. Opposer's Registration No. 1,671,141 is valid, subsisting and in full force and effect. Opposer's registration is incontestable pursuant to section 15 of the Lanham Act, 15 U.S.C. § 1065 and thus serves as conclusive evidence of the validity of Opposer DMC's COZY PET mark, pursuant to 15 U.S.C. § 1115(b).

4. Opposer DMC has continuously used the mark COZY PET in interstate commerce, throughout the United States, since at least as early as August 1, 1990, in connection with the goods recited in Registration No. 1,671,141, and intends to continue so using the mark COZY PET in the future.

5. On August 11, 2010, Applicant IMJ Marketing filed an application, Serial No. 85/105,221, with the U.S. Patent and Trademark Office to register COZY CRAFT PET BEDS in connection with "Beds for household pets; Crate covers for pets; Pet cushions; Pet furniture; Portable beds for pets," in International Class 20. The application alleges a date of first use anywhere and in commerce of May 1, 2008.

6. Applicant IMJ Marketing's application Serial No. 85/105,221 was published for opposition on January 25, 2011.

7. Opposer DMC, through the use and promotion of its mark COZY PET, from a time prior to Applicant IMJ Marketing's alleged date of first use of the mark and filing of its application to register the mark COZY CRAFT PET BEDS, and by virtue of the quality of Opposer DMC's goods, has built up a valuable goodwill and reputation in connection with its mark COZY PET.

8. Opposer DMC's mark COZY PET is an inherently distinctive and strong mark, serving to distinguish the source of Opposer's goods.

9. Applicant IMJ Marketing's proposed mark COZY CRAFT PET BEDS is similar in appearance, sound, connotation, and commercial impression to Opposer DMC's mark COZY PET.

10. Applicant IMJ Marketing and Opposer DMC's respective goods under their respective marks are identical and/or similar in that they both comprise portable pet beds, are distributed and sold through the same or similar channels of trade, and are marketed to the same or similar customers and end users.

11. Opposer DMC believes that it will be damaged by the registration of Applicant IMJ Marketing's proposed mark COZY CRAFT PET BEDS and opposes application Serial No. 85/105,221 because Applicant IMJ Marketing's registration and use of its proposed mark COZY CRAFT PET BEDS in connection with the goods set forth in application Serial No. 85/105,221 is likely to cause confusion, to cause mistake, and to deceive customers, potential customers and others, thereby injuring Opposer DMC and the consuming public and jeopardizing the valuable goodwill and reputation Opposer DMC has built up in connection with its mark COZY PET.

12. Accordingly, for each and every reason stated above, Opposer DMC believes that it will be damaged by the registration of Applicant IMJ Marketing's mark COZY CRAFT PET BEDS and opposes application Serial No. 85/105,221.

WHEREFORE, Opposer DMC prays that this opposition be sustained and that the registration of Applicant IMJ Marketing's mark COZY CRAFT PET BEDS in application Serial

No. 85/105,221 be refused. The filing fee under 37 C.F.R. § 2.6(a)(17) is submitted concurrently herewith.

May 19, 2011

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: \_\_\_\_\_

  
SUSAN HWANG

Attorneys for Opposer  
DALLAS MANUFACTURING COMPANY, INC.

333 South Hope Street, 43rd Floor  
Los Angeles, California 90071  
Telephone: (213) 620-1780  
Facsimile: (213) 620-1398

## **Exhibit A**

Int. Cl.: 20

Prior U.S. Cls.: 3 and 32

**United States Patent and Trademark Office**

**Reg. No. 1,671,141**

Registered Jan. 7, 1992

**TRADEMARK  
PRINCIPAL REGISTER**

**COZY PET**

DALLAS MANUFACTURING COMPANY, INC.  
(TEXAS CORPORATION)  
4011 JOSEPH HARDIN DRIVE  
SUITE A  
DALLAS, TX 75236

FIRST USE 8-1-1990; IN COMMERCE  
8-1-1990.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "PET", APART FROM THE  
MARK AS SHOWN.

SER. NO. 74-138,856, FILED 2-13-1991.

FOR: PORTABLE BEDS FOR PETS, IN  
CLASS 20 (U.S. CLS. 3 AND 32).

K. MARGARET LE, EXAMINING ATTORNEY



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**This page was generated by the TARR system on 2011-05-19 15:00:03 ET**

**Serial Number:** 74138856 Assignment Information      Trademark Document Retrieval

**Registration Number:** 1671141

**Mark (words only):** COZY PET

**Standard Character claim:** No

**Current Status:** The registration has been renewed.

**Date of Status:** 2011-02-01

**Filing Date:** 1991-02-13

**Transformed into a National Application:** No

**Registration Date:** 1992-01-07

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 4

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** (NOT AVAILABLE)

**Date In Location:** 2011-02-01

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. DALLAS MANUFACTURING COMPANY, INC.

**Address:**

DALLAS MANUFACTURING COMPANY, INC.  
4215 MCEWEN ROAD  
Dallas, TX 75244  
United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** Texas

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#### GOODS AND/OR SERVICES

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**International Class:** 020

**Class Status:** Active  
portable beds for pets

**Basis:** 1(a)

**First Use Date:** 1990-08-01

**First Use in Commerce Date:** 1990-08-01

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### ADDITIONAL INFORMATION

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**Disclaimer:** "PET"

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### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2011-02-01 - Second renewal 10 year

2011-02-01 - Section 8 (10-year) accepted/ Section 9 granted

2011-01-31 - Case Assigned To Post Registration Paralegal

2011-01-28 - TEAS Section 8 & 9 Received

2007-12-11 - Case File In TICRS

2002-11-22 - First renewal 10 year

2002-11-22 - Section 8 (10-year) accepted/ Section 9 granted

2002-07-07 - Combined Section 8 (10-year)/Section 9 filed

2002-07-12 - PAPER RECEIVED

1998-02-14 - Section 8 (6-year) accepted & Section 15 acknowledged

1998-01-07 - Section 8 (6-year) and Section 15 Filed

1992-01-07 - Registered - Principal Register

1991-10-15 - Published for opposition

1991-09-13 - Notice of publication

1991-07-01 - Approved for Pub - Principal Register (Initial exam)

1991-06-21 - Examiner's amendment mailed

1991-05-22 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

GARY A. CLARK

**Correspondent**

GARY A. CLARK

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333 SOUTH HOPE STREET

LOS ANGELES CA 90071

Phone Number: (213) 620-1780

Fax Number: (213) 620-1398

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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on May 19, 2011 upon counsel for Applicant IMJ Marketing Inc. at the following address:

Jeffrey Dweck  
The Law Firm of Jeffrey S. Dweck, P.C.  
100 West 33rd Street, Suite 1017  
New York, NY 10001-2914

  
\_\_\_\_\_  
BETTY I. RODRIGUEZ